

dropping bombs; it is about diplomacy and foreign assistance.

Let's stop holding up this bill and get on with the Senate's business. It is utterly lacking in judgment. It unfairly punishes the entire Nation to hold up this bill.

Think of the things that are being held back. Then look at the reason. They claim it is because judges are being held up.

I have a chart. I mention this because my friend from Nevada mentioned it earlier. He mentioned how Republicans—Republicans didn't hold a single hearing on a judicial nomination, not one, didn't confirm a single judicial nominee. When I became chairman of the reconstituted committee, 10 minutes after that we started having hearings. In fact, the Presiding Officer knows that a Republican appointee from his State, a nominee to the circuit court of appeals, the Presiding Officer and his colleague came to me and talked to me about it. That judge moved forward. Look at this chart. We have here the green line.

This is what happened in the first term of George Herbert Walker Bush. By October 15, they had four judges. Take a look at President Clinton. He didn't get his first judge until September. By this time, we had four. Look what happened under our chairmanship. Within a couple of weeks of becoming Chair, I was having hearings on nominations. So this baloney about numbers—I thought I would share the facts.

An easy fact to remember is that during this part of the year the Republicans didn't hold a single confirmation hearing or confirm a single judge. I have gone now faster than the first year of the last two Presidents—both President Bush and President Clinton—twice as fast, actually, moving judges through than it was done in their terms. That is only since becoming chairman of the committee in July. I held hearings two different days during the August recess. I was roundly criticized by two Republican members on the Judiciary Committee for even holding the hearings. You are almost damned if you do, damned if you don't.

That is fine. They have an absolute right. I believe in the first amendment.

The more important question here is not the judges.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The Chair needs to interrupt for a moment to close morning business.

Mr. LEAHY. I yield the floor.

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 2002—MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, the hour of 5 p.m.

having arrived, the Senate will resume consideration of the motion to proceed to H.R. 2506, which the clerk will report.

The assistant legislative clerk read as follows:

A motion to proceed to the bill (H.R. 2506) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2002, and for other purposes.

The PRESIDING OFFICER. Who yields time?

Mr. KYL. Mr. President, for the edification of the Senator from Vermont.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Senator MCCONNELL asked that during the period of time prior to the vote I represent him. I will be happy to do that. I assume that since the proponent of the legislation is the Senator from Vermont, he will want to begin, and I respect that.

I presume from the shrug, the Senator from Vermont does not wish to move forward, in which case I will be happy to continue with the discussion.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I will respond to a couple things the Senator from Vermont had to say. I very much appreciate the burden he carries as chairman of the Judiciary Committee, and the fact he was not in the majority until June. However, I think it important to point out there is a reason the chairman of the Judiciary Committee before him did not hold hearings on nominees.

We will all recall that it took President Bush a little while to secure his office this time, and he was probably a good 6 weeks or so behind. I am not sure how that translates into making nominations to the bench, but by early May he, indeed, was making nominations. There are a whole number of nominations that were made on May 9, as a matter of fact, and then following that, on May 25 and then in June, and so on.

Very shortly after he was sworn in, he began the work of nominating people to fill the vacancies on the court. It is important to point out that, probably more than any of the last four Presidents, himself included, he has acted with alacrity to fill vacancies. As a matter of fact, by the beginning of the August recess, in the short time that President Bush held office, the President had submitted to the Senate 44 judicial nominees. Let me put this in perspective.

President Reagan had submitted 8 nominees before the end of the August recess, President Bush submitted 8 nominees before the August recess, and President Clinton submitted 14 nominees before the August recess. President Bush submitted, as I said, 44 nominees before the August recess.

It is true that those were not submitted in February and March and

April. Obviously, he was just taking office at that time. To point out no hearings were held before the distinguished Senator from Vermont became chairman of the committee I think does not represent the situation in any accurate way for us to take action now.

The fact is, we had 44 nominees pending prior to the August recess, 108 vacancies currently, and therefore it is time to act. Whatever the situation was before June, we now know we have all of these nominees. My question is, Why are we not acting on them?

In terms of hearings, it is true the Senator from Vermont has held hearings, but the problem is he does not put very many judicial nominations on the hearing calendar. In contrast to his predecessor, Senator HATCH, who averaged 4.2 judicial nominees per confirmation hearing, Senator LEAHY has been moving at about a third of that place—1.4 judicial nominees per confirmation hearing. It is a little hard to fill these 108 vacancies when you are only having 1.4 nominees per hearing and you only hold the hearings on the schedule they have been held so far.

As a result, we have only confirmed eight judges. That is the reality of where we are today.

The fact that we have 41 designated emergency judges as indicated by the Administrative Office of the Courts does not concern anyone? It certainly concerns me as a Senator representing a border State, where I have three nominations pending, with no action being taken on those.

There are 21 nominees pending in the Judiciary Committee who are slated to fill positions which have been declared judicial emergencies by the Administrative Office of the Courts. Why are we not holding hearings on these nominations? As far as I know, there is nothing to prevent us from holding hearings, and if I am wrong, I ask the distinguished chairman of the committee to tell me how I am wrong.

He says anyone who takes the position I have taken is utterly lacking in judgment. I ask him to perhaps reconsider that comment. Perhaps I can ask the Senator from Vermont who he thinks is acting like petulant children in the schoolyard—the other comment he made.

The fact is, we have had time to hold hearings, and there are all of these nominations pending. They were pending before the August recess. There is nothing preventing us from holding the hearings. There is nothing preventing us from voting on those nominations in the hearing, nothing except politics, I submit, and that, at the end of the day, is apparently where we are.

I do not like to hold up other business any more than anyone else. It is important to get the foreign operations bill done. Clearly, we will do that. But for those who say we are just so busy doing other things, then I am forced to

say, fine. Then let's stop until we can get some of these nominations to the floor for a vote and acted on.

Mr. President, I wish to make one other comment. These are not my words but the words of the distinguished Senator from Vermont. When Bill Clinton was President and there were fewer than 85 vacancies—now there are 108—Senator LEAHY took the position that “[a]ny week in which the Senate does not confirm three judges is a week in which the Senate is failing to address the vacancy crisis.”

When there were fewer than 70 judicial vacancies, the Senator told the Judiciary Committee:

[W]e must redouble our efforts to work with the President to end the longstanding vacancies that plague the Federal courts and disadvantage all Americans. That is our constitutional responsibility.

I certainly agree with the Senator.

Finally, in May of 2000 Senator LEAHY argued that we should move more judges than had been moved before at a time when they were being moved faster than they are now. He said:

I have challenged the Senate to regain the pace met in 1998 when the committee held 13 hearings and the Senate confirmed 65 judges.

I suggest if it was an appropriate pace then, it is an appropriate pace now. There is no reason not to do it. Therefore, we should get on with that task.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I am going to speak on this issue of judicial nominations for a few moments. I urge us to get as many of these judges reported as possible, but I do also think we need to stick to some of the facts. I will put in the RECORD a few facts.

President Bush has submitted 60 nominees for confirmation to us this year; we have confirmed 8. That is 13 percent. President Clinton through all of 1993—the Senate confirmed 27; he submitted 47; so that was a total of 57 percent.

The first President Bush, in 1989, in his first year, submitted 24. We confirmed 15. So he had 62 percent of the judges he submitted to Congress in his first year be confirmed.

President Reagan, in 1981, submitted 45. Forty-one were confirmed for a confirmation rate of 91 percent. For President Reagan, we confirmed 91 percent of the judges he submitted in his first year in office; President Bush, 62 percent; President Clinton, 57 percent. This year with President George W. Bush, we have confirmed 8 out of 60—only 13 percent. So we are way behind compared to the three previous Presidents. We have a lot of catching up to do.

Those are the facts. We are way behind on circuit court nominees. We have had more circuit court nominees submitted this time than in the past.

We have only confirmed 4, but we have had 25 submitted. So we have only confirmed 16 percent of the circuit court nominees. I just mention that.

For the district court, 35 have been submitted, and we have only confirmed 4. We have a few more in the pipeline, and hopefully we will get those through, but we still have a lot.

My point is, out of 60 judges submitted by President Bush this year, we have confirmed 8. That is only 13 percent. That is far behind the 57 percent for President Clinton's judges. Sixty-two percent of President Bush's judges and 91 percent of President Reagan's judges were confirmed in the first year. So we are moving very slowly. We need to accelerate. That is the reason why some of us are saying wait a minute before we agree to move forward on all the appropriations bills. Let us try to see if we cannot come up with an agreement where we can have expeditious consideration of these judges. They should not be penalized.

This Congress should confirm the judges. I know Senator DASCHLE and Senator REID have told me they concur with that. So I hope in the very near future we come up with an agreement on how to proceed that all would say is a fair way of dealing with these judges. I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Kentucky.

Mr. MCCONNELL. Am I in control of the time on this side? If so, how much time remains?

The PRESIDING OFFICER. Three and a half minutes.

Mr. MCCONNELL. Mr. President, I have been a longtime friend of the chairman of the Judiciary Committee. In fact, he and I have worked together for some 9 years on the foreign operations bill, the bill that will at some point in the future be before the Senate. Sometimes he has been chairman and sometimes I have been chairman. Right now he is chairman.

As an appropriator, I am mindful of the need to complete appropriations bills in a timely fashion. This year, the Foreign Operations Subcommittee has put together what I believe to be a good bill, and I certainly support that bill and want to see it become law at the earliest possible time. Nevertheless, I do intend to vote against cloture on the motion to proceed because regrettably this seems to be the only tool with which we are left to try to advance the President's judicial nominations.

While I am aware of the importance of the timely completion of appropriations bills, I am also cognizant of the need to make sure that our Federal judiciary is adequately staffed. It is because I am concerned that some of my colleagues do not fully appreciate the crisis facing the Federal judiciary that I feel it is necessary to object pro-

ceeding to this bill. I hope that by doing so, we can get a concrete agreement on timely confirming the President's nominees and remedying the situation facing the judiciary.

I have great respect for the chairman of the Judiciary Committee, who is also chairman of the Foreign Operations Subcommittee, but the cold, hard fact is there are 108 judicial vacancies, almost 13 percent of the Federal bench, which means that the Federal judiciary is woefully understaffed. And we are running out of time in this fall session.

It will do us precious little good to pass important counter-terrorism legislation, for example, if there are not enough judges to review search warrants and to try cases in a timely fashion. We are engaged in a massive war on terrorism with, as we have seen today, new fronts emerging each and every day. With such a massive law enforcement operation, we need U.S. Attorneys, and we need Federal judges.

I am particularly puzzled that my colleagues across the aisle, who have cried for adequate judicial safeguards in our counter-terrorism package, would not support our request for the expeditious consideration of the President's judicial nominees.

If we look at the first year of the last three administrations, all but one of the judges nominated before the August recess were confirmed. Clearly, for whatever reason, we are not getting the job done in the Judiciary Committee.

We need to have an adequate complement of Federal judges on the bench. Given the sorry state of the vacancy situation, timely consideration is certainly needed. It is the middle of October, and the President has only eight judicial nominees confirmed. By contrast, at the end of his first year in office, President Clinton had 27 or 28 judges confirmed.

This is not President Bush's fault. He submitted 44 nominees before the August recess. Indeed, President Bush submitted his first batch of nominees back in May. This, again, is another record, at least for the last couple of decades.

Rather, the reason for this delay is that while we have had some hearings, we have not come close to getting the most out of these hearings. I expect this afternoon there has been a lot of talk about hearings, but the fact is we have gotten the least out of the most.

Specifically, while from 1998 to 2000 the Judiciary Committee averaged 4.2 judicial nominees per hearing, this year we have averaged only 1.4 judicial nominees per hearing. That is a pace that is three times as slow as was the case from 1998 to 2000.

We can do better than that. We must do better than that. The chairman of the Judiciary Committee and my friend, Senator LEAHY, was constantly

complaining prior to this year about the slow pace of the previous Senate. The fact is, it was moving a lot more rapidly than we are at the moment.

Now, my colleagues on the other side of the aisle will say, "McCONNELL, you got it all wrong. You need to look at 'this.' And you need to look at 'that.' And you need to look at the other." Well, I and my colleagues are not going to be distracted by "this, that, and the other," and we are going to make sure the American public is not either. We are going to keep our eyes fixed on the bottom line, and the bottom line is that President Bush's 8 judicial nominees is woefully inadequate when compared to his predecessors, and particularly President Clinton who got 28 judges confirmed in his first year.

So I urge my colleagues to support the President, the Federal judiciary, and the law enforcement community, which is on the front lines of our nation's war against terrorism. Vote no on this motion.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. The Senator controls 15 minutes.

Mr. LEAHY. Then do we vote?

The PRESIDING OFFICER. At 5:30, by agreement, there will be a cloture vote.

Mr. LEAHY. I thank the distinguished Chair. The former Governor of Nebraska has spent an enormous amount of time in that chair. I know he is now giving up the chair, but he has done the Senate a great service with the amount of time he has spent there. I have a feeling the Senator from Nebraska, when he came from the executive branch, never thought he would be presiding as much, but he has done the Senate a great service.

I love to hear quotes, especially those taken out of context. Back when the Republicans controlled the Senate I urged that they move quicker on judicial nominations. I think it is because they left an extraordinary number of President Clinton's nominees at the end of his term on which they never even allowed a vote. He had women, Hispanics, others who would wait 3, 4, 5 years and never even get a hearing. That created a real problem. Now, having created all of those vacancies, they come in and say, oh, my gosh, we have judicial vacancies.

President Clinton tried to fill those judicial vacancies, as my colleagues may recall, and the Republican-controlled Senate refused to allow him. Time and time again, they would hold them up. They would keep sending more questions to them. They would not allow them to come forward. They would not have a hearing. They would not have a vote, and finally the nominations died. So, of course, there were

vacancies. All the vacancies would have been filled if they had even allowed votes on these because, when on the rare occasions they would allow a vote, the person would get 90 votes, 95 votes, sometimes 100 votes. They would go through easily, but they would not allow them to have a vote. So the vacancies occurred.

It is a little bit like the young person who is before the court. He is there for murdering his parents and he says, Your Honor, you have to have mercy on me. I am an orphan. Well, this is the same thing. Republicans spent 2, 3, 4, 5, 6 years creating enormous judicial vacancies and then they come in and say we have to fill these judicial vacancies.

We are going to have hearings for five judges on Thursday. We will have a hearing for them. So there are five judges on Thursday alone who are coming up. As we wait for them to finish their questionnaires, I think it is good if we can find out if they have criminal records or things such as that before we go forward. If they fit at least a basic level of competence before they go forward, we will continue to have those hearings. I am not going to do what the Republicans did and have 34 months without having any hearings at all. We have been having hearings every month.

It is an interesting complaint they make, when they had 6 months that they controlled the Senate and did not have any confirmation hearings of judges or votes. We started having them within a week after taking over the Senate.

Be that as it may, maybe someone sits in a room somewhere and thinks we don't have enough work to do. After all, we spent 3 weeks putting together an antiterrorism bill—which did take up a little bit of time. I remember the number of times I was here late at night, and then to hear complaints we have not had Judiciary hearings—actually, we had a couple while we were working on the antiterrorism bill.

Some things have happened in the last month in this country that have needed our attention. We have been trying to move U.S. attorneys as fast as they come up, but it is like pulling teeth to get them out of the White House so we can move them. I don't know if we have had any marshal nominations come up, but a week ago we had not had a single one. I have never known a President in my term to take that long.

Holding up the foreign aid bill is an interesting tactic. I cannot figure out why. If Senators want to criticize me on judges, I am happy to make a commitment to move as fast as they moved the nominees of President Clinton, but I have a feeling no one would be happy if I, as chairman, were to treat President Bush's judicial nominees the way they treated President Clinton's. If I did that, we would hear screams. I

think we would hear screams from Democrats, too, because it would be so patently unfair if we did to them what the Republicans did to President Clinton. I am not going to do that. I don't believe in doing that. When we get done, whatever time I am chairman of the Judiciary Committee, we will find President Bush's nominees were handled far more fairly than those of President Clinton.

Having said that, I wonder what in Heaven's name is the masochistic attitude that is holding up this bill so they can make political points on the weekend talk shows. I cannot understand that. Secretary Powell is overseas now trying to solidify our antiterrorism coalition. Democrats have united behind the President and the Secretary of State in helping to bring together the support of leaders of other countries. The distinguished majority leader has pushed hard to get through money and authorization for President Bush to fight terrorism. We went the extra mile to get the antiterrorism bill completed.

Having done that, we are now saying to the President: Look, Mr. President, you can call on all these people overseas, ask them to support us in our antiterrorism activities, but we are not going to give you your foreign aid bill. We will not give you the money you are now promising the foreign leaders for their help. We are not going to give you the money that goes to NATO allies. We will not give you the money that goes to the Middle East Camp David signers. We will not give you the money to fight AIDS in Africa. We are not going to give you the money to give child immunizations. We are not going to give you the money, apparently, to help feed the Afghanistan people after this war ends.

It is a sad day when, for partisan reasons, an important appropriations bill is sabotaged. Even the ranking member of the foreign appropriations subcommittee will vote against proceeding to the appropriations bill. It is unfortunate, unjustified, especially after I have bent over backwards to work with him on this bill. Our economy is intricately intertwined with the global economy. Our health depends on our ability and the ability of countries in Africa, Asia, and Latin America to control the spread of deadly infectious diseases. Our security is linked to the spread of nuclear, biological, and chemical weapons and our ability to stop terrorism and narco trafficking and organized crime. These threats are prevalent from as far away as China to our own cities.

No less a threat but potentially the trigger that ignites many others is poverty. We are surrounded by a sea of desperate people. Two billion people, a third of the world's inhabitants, live on the edge of starvation. They barely survive on whatever scraps they can

scavenge. Many children die before the age of 5. This grinding, hopeless, desperate existence is overlaid with despair. That despair fuels hatred, fear, violence, and even the terrorism that hit this country a month ago. We see it on many continents, including today in Pakistan, where thousands of people are threatening to overthrow their own government if it gives American troops access to Pakistani territory. We see it across Africa and in Colombia and Indonesia. We see it in the form of refugees and people displaced from their homes who number in the tens of millions.

The world is on fire in too many places to count, and in most of those flashpoints poverty and the injustice that perpetuates it are at the root of instability.

Our foreign assistance programs provide economic support to poor countries, health care to the world's neediest women and children, food and shelter to refugees and victims of natural and manmade disasters, and technical expertise to promote democracy, free markets, human rights, and the rule of law. This is as it should be. But as important as this is, what we give is a pittance when considered in terms of our wealth and the seriousness of the threats we face. Even this pittance, the other side doesn't want us to even vote on. Stand up and say we are all against terrorism. Of course we are. Wave the flag and say you want to protect America. Of course we do. But to say we might do something to actually stop some of the root causes of terrorism—well, not if it interferes with the partisan political agenda; we can't do that.

The approximately \$10 billion we provide in this type of assistance—whether through the State Department and the Agency for International Development or as contributions to the World Bank, the U.N. Development Program, the World Food Program, and other organizations—amounts to less than \$40 per person in this country.

We are all willing to give far more money than that—we were in my family—for the victims of terrorism. But at least give something that maybe will stop the terrorism from happening in the first place. We are also trying to help people in our country because our economy is suffering. But we cannot bury our heads in the sand and protect our national interests, in today's complex and dangerous world, on a foreign assistance budget that is less in real terms than it was 15 years ago.

Our world is not simply our towns and our States and our country, it is the whole world. We live in a global economy. The Ebola virus is like a terrorist—the terrorists could get on a plane in one part of the world and could be in our backyard hours later. We can try our best to control our borders, but we cannot hide behind an impenetrable wall.

We have to go to the source of the problem, to the countries that are failing from ignorance, poverty, and injustice.

Almost 60 percent of the world's people live in Asia. That number is growing. Seventy percent of the world's people are nonwhite, 70 percent are non-Christian, 5 percent own more than half the world's wealth, half the world's people suffer from malnutrition, and 70 percent are illiterate.

These people may not knock down skyscrapers that kill 6,000 Americans in a single day. But they pose immense long-term threats to our way of life: Extreme poverty on a massive scale in countries that cannot feed their people today, and the poisoning of our environment. All of these things should be attacked by us just as much as we attack the networks of Osama bin Laden.

We give no credit to the Senate—the greatest parliamentary body—we give no credit to this great body if we block the foreign aid bill from going forward. I yield the floor.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent the order for the quorum call be dispensed with.

The PRESIDING OFFICER (Mr. FEINGOLD). Without objection, it is so ordered.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the clerk will report the motion to invoke cloture.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to Calendar No. 147, H.R. 2506, the foreign operations appropriations bill, 2002:

Harry Reid, Patrick Leahy, Richard J. Durbin, Ron Wyden, Barbara A. Mikulski, Daniel K. Akaka, Russell D. Feingold, Jack Reed, Zell Miller, Tim Johnson, Paul S. Sarbanes, Jean Carnahan, Daniel K. Inouye, Barbara Boxer, Ernest F. Hollings, Patty Murray, Edward M. Kennedy.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call under the rule is waived.

The question is, Is it the sense of the Senate that debate on the motion to proceed to H.R. 2506, an act making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2002, and for other purposes, shall be brought to a close.

The yeas and nays are required under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Washington (Ms. CANTWELL) is necessarily absent.

Mr. NICKLES. I announce that the Senator from Mississippi (Mr. LOTT), the Senator from Arizona (Mr. MCCAIN), and the Senator from Oklahoma (Mr. INHOFE) are necessarily absent.

The PRESIDING OFFICER (Mr. CLELAND). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 50, nays 46, as follows:

[Rollcall Vote No. 303 Leg.]

YEAS—50

Akaka	Dorgan	Lieberman
Baucus	Durbin	Lincoln
Bayh	Edwards	Mikulski
Biden	Feingold	Miller
Bingaman	Feinstein	Murray
Boxer	Graham	Nelson (FL)
Breaux	Harkin	Nelson (NE)
Byrd	Hollings	Reed
Carnahan	Inouye	Reid
Carper	Jeffords	Rockefeller
Cleland	Johnson	Sarbanes
Clinton	Kennedy	Schumer
Conrad	Kerry	Stabenow
Corzine	Kohl	Torricelli
Daschle	Landrieu	Wellstone
Dayton	Leahy	Wyden
Dodd	Levin	

NAYS—46

Allard	Enzi	Roberts
Allen	Fitzgerald	Santorum
Bennett	Frist	Sessions
Bond	Gramm	Shelby
Brownback	Grassley	Smith (NH)
Bunning	Gregg	Smith (OR)
Burns	Hagel	Snowe
Campbell	Hatch	Specter
Chafee	Helms	Stevens
Cochran	Hutchinson	Thomas
Collins	Hutchison	Thompson
Craig	Kyl	Thurmond
Crapo	Lugar	Voinovich
DeWine	McConnell	Warner
Domenici	Murkowski	
Ensign	Nickles	

NOT VOTING—4

Cantwell	Lott
Inhofe	McCaIn

The PRESIDING OFFICER. On this vote, the yeas are 50, the nays are 46. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLOTURE MOTION

Mr. REID. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the motion to proceed to H.R. 2506, the Foreign Operations Appropriations bill.

Pat Leahy, Harry Reid, Tom Daschle, Ben Nelson of Nebraska, Kent Conrad, Zell Miller, Byron L. Dorgan, Russell D. Feingold, Paul Wellstone, Joseph Lieberman, Debbie Stabenow, Bill Nelson of Florida, Max Cleland, Patty Murray, Mark Dayton, Jack Reed of Rhode Island, Barbara Mikulski, and Herb Kohl.

Mr. REID. Mr. President, I ask unanimous consent that the mandatory quorum under rule XXII be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to a period for morning business, with Senators allowed to speak therein for a period not to exceed 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

TERRORISM

Mr. BIDEN. Mr. President, 5 years ago I stood here and called upon the Senate to join the fight against terrorism. Back then terrorism seemed like something that happened far away, in distant lands over distant conflicts. Well, that has all changed.

Terrorism has come to America.

We have to be a little proactive now. Back then, I proposed a series of precise antiterrorism tools to help law enforcement catch terrorists before they commit their deadly acts, not ever imagining the events of September 11.

In particular, I said that it simply did not make sense that many of our law enforcement tools were not available for terrorism cases.

For example, the FBI could get a wiretap to investigate the mafia, but they could not get one to investigate terrorists. To put it bluntly, that was crazy! What's good for the Mob should be good for terrorists!

Anyway, some of my proposals were enacted into law, a number were not.

There were those who decided that the threat to Americans was apparently not serious enough to give the President all the changes in the law he requested.

Today, five years later, I again call on my colleagues to provide law enforcement with a number of the tools which they declined to do back then. The anti-terrorism bill we passed judgment on Thursday, S. 1510, is measured and prudent. It takes a number of important steps in waging an effective war on terrorism.

It allows law enforcement to keep up with the modern technology these terrorists are using. The bill contains several provisions which are identical or near-identical to those I previously proposed.

For example: it allows the FBI to get wiretaps to investigate terrorists, just like they do for the Mafia or drug kingpins; it allows the FBI to get a "roving

wiretap" to investigate terrorists—so they can follow a particular suspect, regardless of how many different forms of communication that person uses; it allows terrorists to be charged with federal "racketeering" offenses—serious criminal charges available against organizations which engage in criminal conduct as a group—for their crimes; it includes a provision similar to legislation I introduced last Congress, S. 3202, to prohibit terrorists, and others, from possessing biological materials when that person does not have any lawful reason for having them. Right now, it's only illegal if you intend to use such materials as a weapon, the FBI tells me that that is simply too difficult a burden for them to prove in many cases, and that the new offense we create in this bill will be helpful in prosecuting terrorists who possess dangerous biological agents; it incorporates the language of S. 899, legislation Senator HATCH and I introduced earlier this year to raise the payment to families of public safety officers killed or permanently disabled in the line of duty from \$100,000 to \$250,000.

Let's be clear. This bill is a step in the right direction. Some will say that it doesn't go far enough.

I have to say, I was disappointed that the Administration dropped some proposals from an early draft of its bill, measures which I called for five years ago. Those antiterrorism measures are NOT in the bill, but I continue to believe that they're common-sense tools which law enforcement should have.

We should be extending 48 hour "emergency" wiretaps and "pen registers," "caller-ID"-type devices to track incoming and outgoing phone calls from suspects, to terrorism crimes. This would allow police, in an emergency situation, to obtain immediate surveillance means against a terrorist, provided the police go to a judge within 48 hours and prove that they had the right to get the wiretap and that the emergency circumstances prevented them from going to the judge in the first place. Right now, these emergency means are available only for organized crime cases.

We should be extending the Supreme Court's "good faith" exception to wiretaps. This well-accepted doctrine prevents criminals in other types of offenses from going free when the police make an honest mistake in seizing evidence or statements from a suspect. We should apply this "good faith" exception to terrorist crimes as well, to prevent terrorists from getting away when the police make an honest mistake in obtaining a wiretap.

I'm also pleased that Chairman LEAHY and the administration were able to reach consensus on the two areas which gave me some pause in the administration's original proposal: those provisions dealing with mandatory detention of illegal aliens and

with greater information sharing between the intelligence and law enforcement communities.

Overall, the agreement Chairman LEAHY reached has satisfied me that these new law enforcement powers will not upset the balance between effective law enforcement and the civil liberties we all value.

This bill is not perfect. No one here claims it has all the answers. This fight may be lengthy. But I am confident that by treating terrorism as seriously as we do the Mob, that we are taking a step in the right direction.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of this year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

Last Friday marked the three-year anniversary of a heinous crime that occurred in Laramie, WY. On October 12, 1998, Matthew Shepard, 21, an openly gay student at the University of Wyoming, was savagely beaten to death, burned, and tied to a wooden fence. Russell A. Henderson, 21, and Aaron McKinney were convicted of first-degree felony murder, kidnapping, and aggravated battery. The duo had met Shepard at a bar, pretended to be gay, and lured him to their truck where they intended to rob him. After being pistol whipped and burned, Shepard was found 18 hours later tied to a fence and in a coma. He died later that night in Poudre Valley Hospital in Fort Collins, CO. The pair's girlfriends, Chasity V. Pasley, 20, and Kristen L. Price, 18, were convicted for being accessories after the fact.

On a personal note, I want to state that my involvement with hate crimes legislation stems from this murder. I was in Portland, OR watching the televised vigil on the steps of the Capitol following Matt's death. It caused me great sorrow to note that no sitting Republican Senator was involved in this vigil. I resolved then to help change our current hate crimes law in part so that what happened to Matt, would never happen again.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation, we can change hearts and minds as well.

HISPANIC HERITAGE MONTH

Mr. LEVIN. Mr. President, this autumn from September 15th to October